

imprisonment.³

Although the resisting misdemeanor was not the crime of the century, not the conduct the most egregious, nonetheless, two magistrate judges found probable cause existed to issue Plaintiff's arrest warrants under N.C. Gen. Stat. § 14-223. And even if the Court were to find that Trooper White's procurement of the arrest warrants lacked probable cause, Plaintiff's conviction in state District Court after her first arrest establishes probable cause as a matter of law, regardless of the fact that the matter was subsequently dismissed in Superior Court.⁴

As to Plaintiff's assault and battery claims, summary judgment in favor of Defendant is appropriate because Plaintiff failed to offer more than a scintilla of evidence to support her claims, let alone enough evidence for a reasonable jury to find against Defendant.⁵

³ One element of a malicious prosecution claim is "lack of probable cause for the initiation of the earlier proceeding." Hoover v. McDowell Cty, 1998 U.S. App. LEXIS 12719, at *6-7 (citing Best v. Duke Univ., 448 S.E.2d 506, 510 (N.C. 1994)). "Involuntary restraint and its unlawfulness are the two essential elements of [false imprisonment]." Parrish v. Boysell Mfg. Co., 188 S.E. 817, 820 (N.C. 1936) (quoting State v. Lunsford, 81 N.C. 528 (1879)). "Probable cause is an absolute bar to a claim for false arrest." Adams v. City of Raleigh, 782 S.E.2d 108, 112 (N.C. Ct. App. 2016) (internal citations omitted).

⁴ "Absent a showing that the conviction in District Court was procured by fraud or other unfair means, the conviction conclusively establishes the existence of probable cause, even though the plaintiff was acquitted." Hoover v. McDowell County, 1998 U.S. App. LEXIS 12719, at *7 (4th Cir. 1998) (quoting Myrick v. Cooley, 371 S.E.2d 492, 495 (N.C. App. 1988)). Here, the Court determined that Plaintiff's conviction was not procured by fraud or unfair means; therefore, Plaintiff's conviction conclusively establishes the existence of probable cause.

⁵ To prevail on an assault and battery claim against a law enforcement officer, a plaintiff must show that the officer used excessive force under the given circumstances. Glenn-Robinson v. Acker, 538 S.E.2d 601, 615 (N.C. Ct. App. 2000) (internal citations omitted). Here, Plaintiff alleges that the handcuffs were tight,

Lastly, even if the Court were to find that Plaintiff's constitutional rights were violated in this case, qualified immunity would shield Defendant from suit because Plaintiff's constitutional rights were not "clearly established" at the time such that a reasonably prudent officer in Defendant's position would have known of those rights. See Harlow v. Fitzgerald, 457 U.S. 800, 818 (1982).

IT IS THEREFORE ORDERED THAT:

1. Defendant's Motion for Summary Judgment, (Doc. No. 18), is
GRANTED; and
2. The Clerk of Court is directed to close this case.

Signed: June 19, 2019



Robert J. Conrad, Jr.
United States District Judge



painful, and left little marks on her wrists after they were removed. She submitted no documentation or evidence showing that this caused her anything more than temporary discomfort.